United Nations A/HRC/31/L.9/Rev.1

General Assembly

Distr.: Limited
23 March 2016

Original: English

Human Rights Council
Thirty-first session
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Albania, Andorra,* Angola,* Argentina,* Australia,* Austria,* Bahamas,* Belgium, Bolivia (Plurinational State of), Bosnia and Herzegovina,* Brazil,* Bulgaria,* Canada,* Chile,* Colombia,* Costa Rica,* Croatia,* Cuba, Cyprus,* Czech Republic,* Denmark,* Dominican Republic,* Ecuador, Egypt,* El Salvador, Estonia,* Finland,* France, Georgia, Germany, Ghana,* Greece,* Guatemala,* Haiti,* Honduras,* Hungary,* Iceland,* Ireland,* Israel,* Italy,* Jamaica,* Kazakhstan,* Latvia, Liechtenstein,* Lithuania,* Luxembourg,* Malta,* Mexico, Monaco,* Montenegro,* Netherlands, New Zealand,* Nicaragua,* Norway,* Pakistan,* Panama, Paraguay, Peru,* Philippines, Poland,* Qatar, Republic of Moldova,* Romania,* Saint Kitts and Nevis,* Serbia,* Slovakia,* Slovenia, Spain,* Sweden,* Switzerland, Thailand,* the former Yugoslav Republic of Macedonia, Timor-Leste,* Trinidad and Tobago,* Turkey,* Ukraine,* United Kingdom of Great Britain and Northern Ireland, Uruguay,* Venezuela (Bolivarian Republic of): draft resolution

31/... Rights of the child: information and communications technologies and child sexual exploitation

The Human Rights Council,

Emphasizing that the Convention on the Rights of the Child constitutes the standard in the promotion and protection of the rights of the child, bearing in mind the importance of the Optional Protocols to the Convention, and calling for their universal ratification and effective implementation, as well as that of other relevant human rights instruments,

Recalling all previous resolutions on the rights of the child of the Commission on Human Rights, the Human Rights Council and the General Assembly, the most recent being Council resolution 28/19 of 27 March 2015 and Assembly resolution 70/137 of 17 December 2015,

Welcoming the work of the Committee on the Rights of the Child on the issue of information and communications technologies and child sexual exploitation, including in

* Non-member State of the Human Rights Council.

Please recycle

the context of its general comments, in particular general comments No. 13 (2011) on the right of the child to freedom from all forms of violence and No. 16 (2013) on State obligations regarding the impact of the business sector on children's rights,

Welcoming also the work of the Special Rapporteur on the sale of children, child prostitution and child pornography and of the Special Representative of the Secretary-General on Violence against Children on opportunities and risks associated with the use of information and communications technologies and children's protection from sexual abuse and exploitation,[1] as well as the work of the Special Representative of the Secretary-General on Children and Armed Conflict, and taking note with appreciation of their recent reports,[2]

Welcoming further the adoption by the General Assembly of the 2030 Agenda for Sustainable Development,[3] underscoring the importance of its implementation in ensuring the enjoyment of the rights of the child, and recalling that it includes target 5.2, on eliminating all forms of violence against all women and girls in the public and private spheres, including trafficking and sexual and other types of exploitation, and target 16.2, on ending abuse, exploitation, trafficking and all forms of violence against and torture of children,

Recognizing the importance of information and communications technologies in children's lives as a new tool for learning, socialization, expression, inclusion and fulfilment of the rights of the child and fundamental freedoms, such as the right to education, the right to freedom of expression, the freedom to seek, receive and impart information, and the right to express his or her views freely,

Reaffirming the responsibilities, rights and duties of parents, legal guardians or other persons legally responsible for the child to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of his or her rights,

Recognizing that children are among the most active participants online and that parents, guardians and educators who have responsibility for children's activities may need guidance on protecting children online,

Reaffirming that States shall undertake to protect the child from all forms of exploitation and sexual abuse and, for that purpose, in particular, to take all appropriate national, bilateral and multilateral measures to prevent the inducement or coercion of a child to engage in any unlawful sexual activity, the exploitative use of children in prostitution or other unlawful sexual practices and the exploitative use of children in pornographic performances and materials,

Recognizing that information and communications technologies can facilitate the commission of criminal activities with impunity regarding the sale, sexual abuse and exploitation of children, including in pornography, child sexual abuse material and prostitution; new threats or forms of sexual abuse and exploitation, such as the solicitation of children for sexual purposes known as "child grooming", sexual extortion and live streaming of child abuse; the possession, distribution, access to, exchange, production of or payment for child sexual abuse material; and the viewing, conducting or facilitation of children's participation in live sexual abuses, among others,

---

[1] A/HRC/28/56 and A/HRC/28/55.

[2] A/HRC/31/19, A/HRC/31/20 and A/HRC/31/58.

[3] General Assembly resolution 70/1.

Deeply concerned by risks such as sexting and self-generated content, by new and evolving forms of violence against children, particularly child sexual abuse and exploitation, and by cyberbullying, which are related to the use of information and communications technologies,

Acknowledging the role that information and communications technologies play in reducing the risk of sexual abuse and exploitation, including by empowering children to report such abuses,

Recognizing that States should promote access to digital media and information and communications technologies while protecting children from harm,

Emphasizing that States have the primary responsibility to respect, protect and fulfil the rights of the child, including through the prevention of violations and the protection and provision of effective remedies to victims, and to address all forms of violence and abuse against children, including sexual abuse and exploitation, at all times and in all settings,

Underlining that child sexual abuse and exploitation through information and communications technologies, including online, involving the production, sale, dissemination or possession of child sexual abuse and exploitation material, including child pornography, constitutes a serious abuse or violation of the child's physical and psychological integrity and human dignity and an unlawful use of the child victim's personal data and that it can have a negative impact on the enjoyment of the right of the child to the protection of the law against arbitrary or unlawful interference with his or her privacy,

Reaffirming that the child, for the full and harmonious development of his or her personality, should grow up in a family environment, while the best interests of the child shall be the guiding principle of those responsible for his or her nurture and protection, and that families' and caregivers' capacities to provide the child with care and a safe environment should be promoted,

Recognizing that perpetrators of child sexual abuse and exploitation online are sometimes the direct caregivers of the child and that family members, communities and neighbours might be involved in the offering of children for the purpose of sexual abuse and exploitation through information and communications technologies,

Recalling in this regard that States should take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment, sexual abuse and exploitation, while in the care of their parents, legal guardians or any other person who cares for the child,

Recognizing that the responsibility to respect the rights of the child also applies to private actors and business enterprises and, in particular, that private actors in the Internet industry who provide or operate services across domestic jurisdictions should continue to take part in joint international efforts to raise awareness and empower children about online risks and to prevent and counter child sexual abuse and exploitation online and offline,

Acknowledging efforts made by private actors, in the framework of corporate social responsibility, to ensure that their infrastructure and services are not used for criminal purposes and to cooperate fully in efforts related to the detection, reporting, investigation, prosecution and prevention of child sexual abuse and exploitation online and offline,

Recognizing the importance of prevention in ensuring a safe online and information and communications technologies environment for children while protecting the child's rights to the protection of the law against arbitrary or unlawful interference with his or her privacy, to seek, receive or impart information, to education, to freedom of expression and

to participation, and recognizing also that prevention measures and approaches should involve key actors, including Governments, civil society, industry, parents, schools, children and the whole community,

Expressing concern in relation to the situations when private actors abstain from taking actions required under national and international law to provide adequate safeguards aimed at preventing child sexual abuse and exploitation, and stressing in this regard the utmost importance of bringing to justice all those involved in or facilitating child sexual exploitation and abuse online,

Recognizing the multi-jurisdictional and transnational nature of child sexual exploitation and abuse online and through information and communications technologies, the fragility of the electronic evidence of such crimes and the continual adaptation of technology by perpetrators to avoid detection and investigation, which pose various difficulties for traditional mutual legal assistance and cooperation channels and require active international cooperation among different actors, including States and their law enforcement and judicial authorities and private actors, including with regard to detecting the crimes, reporting them to competent authorities for investigation, safeguarding electronic evidence of the crimes and handing it over to those authorities in a timely manner,

Welcoming the renewed momentum in the global fight against child sexual abuse and exploitation created by relevant international multi-stakeholder initiatives promoted in partnership with Governments, including law enforcement and judicial authorities, private actors and business enterprises and civil society, such as the Global Programme on Cybercrime of the United Nations Office on Drugs and Crime, the Child Online Protection Initiative of the International Telecommunication Union, the Global Alliance against Child Sexual Abuse Online, WeProtect and the Virtual Global Taskforce, as well as the high-level meeting of the General Assembly on the overall review of the implementation of the outcomes of the World Summit on the Information Society, and encouraging greater coordination among those initiatives and the dissemination of information concerning their activities,

Acknowledging international, regional and local relevant initiatives taken and efforts made to prevent and address the threat of child sexual exploitation and abuse online and the drastic consequences associated with it on children's full enjoyment of human rights, and commending the role of the International Telecommunication Union and its working group on online child protection in combating the sexual abuse and exploitation of children online,

1. *Takes note with appreciation* of the report of the United Nations High Commissioner for Human Rights entitled "Information and communications technology and child sexual exploitation";[4]

2. *Urges* States to take all steps necessary to ensure full, equal, inclusive and safe access, without discrimination of any kind, to information and communications technologies by all children and safeguard the protection of children online and offline through an integrated and multifaceted approach based on the rights and well-being of children;

3. *Condemns* in the strongest possible terms all forms of violence against children, including sexual and gender-based violence, including when perpetrated through

[4] A/HRC/31/34 and Corr.1.

or resulting from the criminal misuse of information and communications technologies made available on the Internet, and sexual exploitation of children online;

4. *Calls upon* States to ensure the legal protection of children from sexual abuse and exploitation online and to legally define, in accordance with international human rights law and obligations, and criminalize all relevant conduct related to the sexual exploitation of children online and offline, including but not limited to its newest forms, such as the solicitation of children for sexual purposes known as "child grooming", sexual extortion, and streaming of child abuse, as well as possession, distribution, access to, exchange, production of or payment for child sexual abuse material and the viewing, conducting or facilitation of children's participation in live sexual abuses transmitted through information and communications technologies, while ensuring that their legislation takes into account possible future developments in the modi operandi for online child sexual abuse and exploitation;

5. *Also calls upon* States to ensure that the whole chain of those involved or attempting to commit such criminal activities are held accountable and brought to justice in order to fight impunity, taking into account the multi-jurisdictional and transnational nature of child sexual exploitation and abuse online through information and communications technologies;

6. *Further calls upon* States to ensure that domestic legislation on data protection and privacy is in accordance with international human rights law and allows law enforcement, social welfare and judicial authorities to conduct effective and appropriate investigations and prosecutions to combat violations of the child victim's right to privacy, according to which no one shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, and the right to the protection of the law against such interference, as set out in article 12 of the Universal Declaration of Human Rights and article 17 of the International Covenant on Civil and Political Rights, in respect of child sexual exploitation online and offline, and to raise awareness of the importance of activities and compliance with the law by private actors, notably those in the Internet industry, to strengthen those efforts;

7. *Calls upon* States, through increased cooperation among relevant State agencies, to remove obstacles to effective investigations of and prosecutions for child sexual abuse and exploitation online and offline by facilitating access by the competent law enforcement and judicial authorities to evidence of crimes committed across borders, including witness testimony and electronic information stored by Internet service providers and online platforms, and stresses that private actors should comply with the law enforcement measures taken in that respect;

8. *Also calls upon* States to ensure a clear and predictable legal and regulatory environment, which requires information and communications technology and other relevant industries to respect the rights of the child and which strengthens regulatory agencies' responsibility for the development of standards for the protection of the rights of the child;

9. *Further calls upon* States to establish fast and effective procedures for the removal or blocking of child sexual abuse or pornographic materials involving children, including by adopting legislation and promoting self-regulatory frameworks for businesses, in accordance with national and international human rights laws and obligations, to aid the detection of crimes online, report evidence thereof and prevent the dissemination of child abuse material involving children, "child grooming" and other forms of child sexual abuse and exploitation online;

10. *Urges* States to strengthen international and regional cooperation among their law enforcement services, including through, inter alia, appropriate mutual legal assistance

frameworks in criminal matters, and with the International Criminal Police Organization, and to ensure effective implementation of relevant international standards and the enforcement of the applicable legal framework on issues related to child sexual abuse and exploitation online and offline;

11. *Calls upon* States to promote international financial and technical cooperation in this area, to exchange best practices, investigation procedures, training and capacity-building in order to prevent, eradicate and mitigate child sexual abuse and exploitation online and to promote the physical and psychological recovery and social reintegration of victims;

12. *Urges* States to establish well-trained and well-resourced dedicated law enforcement investigative units in charge of investigating, pursuing and combating sexual and gender-based violence against children committed using information and communications technologies and child sexual exploitation online, or to strengthen such units if they already exist, and to provide them with adequate financial support and capacity-building and specialist training opportunities;

13. *Calls upon* States to develop a comprehensive, safe, inclusive and empowering approach to children's online protection that is in line with the Convention on the Rights of the Child, ensuring that the principles enshrined in the Convention, including non-discrimination, the best interests of the child, survival and development and children's right to express their views in matters affecting them, are meaningfully implemented;

14. *Urges* States to provide for effective remedies, recovery and reintegration, including through integrated child- and gender-sensitive and child-friendly complaints and reporting mechanisms, services and programmes for child victims of sexual abuse and exploitation, to mitigate the harm caused to them, and to prevent secondary victimization while ensuring the right of the child to be heard, including in any administrative or judicial proceeding affecting him or her, in a manner consistent with the procedural rules of national law;

15. *Encourages* States to develop and strengthen the collection, analysis and dissemination of data, as appropriate, on online and offline sexual abuse and exploitation, disaggregated by, inter alia, age, sex, family income and other relevant factors, as an integral part of States' efforts to prevent and respond to this abuse;

16. *Calls upon* States to adopt and enable all necessary administrative and legal measures to guarantee the rights to privacy, provide protection, safety and adequate information for all children involved in ongoing criminal investigations' cases and or judicial proceedings, before, during and after such investigations and proceedings;

17. *Also calls upon* States to adopt and implement sustained and inclusive child-empowering non-formal and formal education programmes, providing children, parents, caregivers, teachers and other professionals working with children with basic skills relating to media and information literacy, notably information and training on the online environment, its safe use, benefits and risks, in order to increase their awareness and capacity to adopt online coping strategies and support children's resilience, including by involving children, former victims, relevant non-governmental organizations and relevant industries;

18. *Further calls upon* States to develop initiatives and programmes using information and communications technologies, including mobile telephone and social media, to inform children of their rights, the risks of sexual abuse and exploitation and coping strategies, including by implementing timely alert mechanisms, while taking into account the challenges faced by children with disabilities in that regard;

19. *Urges* States to establish widely available, easily accessible, child- and gender-sensitive and confidential counselling, reporting and complaints mechanisms for children, such as child helplines, to report inappropriate interactions and violence encountered online and to protect children;

20. *Encourages* the participation of children in the development and the implementation of policies, programmes and other initiatives aimed at promoting the rights of the child, in particular those preventing and combating child sexual abuse and exploitation online and offline;

21. *Encourages* States to build and strengthen multi-stakeholder platforms with the participation of Governments, civil society and representatives of industry, in particular with the information and communications technology sector, the tourism and travel industry and the banking and finance sectors, with a view to promoting private partners' participation in the elaboration and implementation of policies to empower and inform children, prevent child sexual abuse and exploitation online and offline, which would include preventive safety and quality alert measures;

22. *Decides* to continue its consideration of the question of the rights of the child in accordance with its programme of work and its resolutions 7/29 of 28 March 2008 and 19/37 of 23 March 2012, and to focus its next annual day of discussion on the theme "Protection of the rights of the child in the implementation of the 2030 Agenda for Sustainable Development";

23. *Requests* the United Nations High Commissioner for Human Rights to prepare a report on that theme, in close cooperation with all relevant stakeholders, including States, the United Nations Children's Fund, other relevant United Nations bodies and agencies, relevant special procedure mandate holders, regional organizations and human rights bodies, civil society, national human rights institutions and children themselves, and to present it to the Human Rights Council at its thirty-fourth session, with a view to providing information for the annual day of discussion on the rights of the child.